

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

KEITH WHITTLE,

Plaintiff,

vs.

Civil Action 1:06-CV-744
Judge Holschuh
Magistrate Judge King

PROCTOR AND GAMBLE, et al.,

Defendants.

ORDER

On September 26, 2008, the United States Magistrate Judge issued a Report and Recommendation recommending that defendant Theodore Cummings's request to dismiss plaintiff's claim for patent infringement be denied without prejudice. *Report and Recommendation*, Doc. No. 104. There has been no objection to the *Report and Recommendation*. The *Report and Recommendation* is hereby **ADOPTED** and **AFFIRMED**.

Accordingly, in light of the foregoing, *Defendant Theodore Cummings' Notice Regarding Joint Claim Construction Chart*, Doc. No. 95, also requesting a dismissal of the patent count, is **DENIED as moot**.

Date: October 27, 2008

/s/ John D. Holschuh
John D. Holschuh, Judge
United States District Court